IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23645 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RELIEF EDUCATION TRUST & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR AR MAJMUDAR for Petitioner(s) : 1 - 2.MR NK MAJMUDAR for Petitioner(s) : 1 - 2.
MR PRCHCHHAK, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2,
MR JJ YAJNIK for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/12/2005

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner – trust has prayed for an appropriate writ, direction and/or order quashing and setting aside the action on the

part of the respondents – authorities of taking a decision to restrain the petitioners from undertaking educational awareness programmes in Anand and Ahmedabad which can never be terms as equivalent to Diploma in Nursing conducted by the Government colleges. The petitioners have also prayed for quashing and setting aside the Notice dated 24th August, 2005 by which the Commissioner, Health, Medical Service & Medical Education (Medical Department), Gandhinagar, called upon the petitioners to show cause as to why the unrecognized nursing course should not be directed to be closed/stopped.

2. The petitioner No.1 – trust was imparting nursing course namely Diploma in Nursing Course of one year/six months and was also issuing certificates/degrees of Diploma in General Nursing. As the said was unrecognized and contrary to the Gujarat Nursing Midwifery & Health Visitors Act; 1968 and as it was likely to misguide the public at large, the Commissioner, Health, Medical Service &

Medical Education (Medical Department), Gandhinagar, issued show-cause notice upon the petitioners dated 24th August, 2005 calling upon the petitioners to show cause as to why the petitioners should not be directed to close the said course and therefore, the petitioners have preferred the present Special Civil Application as according to the petitioner – trust, the petitioner – trust is arranging study materials for imparting education which is absolutely primary and basic eduction of hospital technology and the main purpose for the same is to enlighten the individual in respect of maintaining cleanliness and hygienic conditions in hospitals and dispensaries and no degree is given and/or no certificate is issued, which may be utilized for any commercial purpose.

3.It is required to be noted that there is an Act known as Indian Nursing Council Act; 1947 and Section 10 and the Schedule provides for recognized qualifications for General Nursing. There is also an Act known as Gujarat Midwifery Act and only

through the recognized training institutions, the education in nursing course can be imparted. Admittedly the petitioner – trust is not recognized institution and therefore, they cannot award any certificate/degree in Diploma in General Nursing. Under the guise of and making show that they are providing only general knowledge for cleanliness and hygienic conditions of hospitals and dispensaries, so many institutions like the petitioner are misguiding and cheating the public at large. What kind of training is being imparted and whether it is equivalent and/or similar to that of recognized institution, are all disputed questions of facts. Allowing the petitioners to run the institution and continue the petitioners to run the said activity would be contrary to the provisions of the Indian Nursing Council Act; 1947 as well as Gujarat Midwifery Act, which cannot be permitted and therefore, the petitioners cannot be permitted to misguide the public at large under the guise of providing only general training in respect of maintaining cleanliness and hygienic conditions

in hospitals and dispensaries. In the show-cause notice itself it is stated that the duration of the said course is one year/six months and the course is known as Diploma in General Nursing and not only that but they were issuing the certificates/degrees of Diploma in General Nursing, which cannot be permitted.

4.Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly dismissed.

(M.R.SHAH, J.)

kdc.